

**REMARKS**

Claims 1-40 are pending in this application.

In the Office Action dated November 4, 2004, items 4 and 5, the Office rejected claims 1-40 under 35 U.S.C. § 112, first paragraph, because it asserted that there is no written description of “dynamic stirring” in the specification. As amended, claim 1 does not recite “dynamic stirring.” Instead, claim 1, and therefore claims 2-40, which depend on claim 1, recite “magnetic or mechanical stirring.” Support for this term is found in the specification on page 13 at lines 1-2, 7-8, 17-18, and 21-22. Thus, the addition of this term does not add new matter. Applicants respectfully request that the rejection under 35 U.S.C. § 112, first paragraph, be withdrawn.

In items 6 and 7, the Office rejected claims 1-31 and 33-40 as being anticipated by WO 95/13799 (“WO ‘799”) under 35 U.S.C. § 102(b). The Office asserted that WO ‘799 teaches a process for microencapsulating an active agent by coacervation, including mixing the polymer/active agent solution with another liquid using a static mixer. As amended, though, claim 1 does not recite a process using a “static mixer.” Static mixing is achieved when “the fluid moves through the mixer, rather than some part of the mixer, such as a blade, moving through the fluid.” WO ‘799 at page 21, lines 26-27. Instead, the claimed process uses “magnetic and mechanical stirring.” Thus, WO ‘799 does not recite each and every element of claim 1 and, therefore, cannot anticipate it or claims 2-40, which depend on it.

In addition, Applicants note that WO ‘799 discloses a process using silicon oil as a non-solvent. In contrast, the non-solvent of the claimed process is “an alcohol or ketone containing 2 to 5 carbon atoms.” Because silicone oil is not an alcohol or

ketone, WO '799 fails to teach each and every element of the claimed invention.

Because WO '799 lacks a teaching of either "magnetic or mechanical stirring" or of "an alcohol or ketone of 2 to 5 carbon atoms," Applicants respectfully request that the rejection under 35 U.S.C. § 102(b) be withdrawn.

In items 8 and 9, the Office rejected claim 32 under 35 U.S.C. § 103, because it asserted that WO '799 teaches a solvent system that is optimal at 0-4°C, and that this would render a coacervation temperature of -4°C, as recited in claim 32, obvious. Regardless of whether a system at 0-4°C would render a system at -4°C obvious, as discussed above, WO '799 fails to recite the elements of "magnetic or mechanical mixing" and a non-solvent of "an alcohol or a ketone of 2 to 5 carbon atoms," as required in claim 32. Without support for these elements in a process of microencapsulating an active principle by coacervation, the claimed invention is not rendered obvious. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. § 103 be withdrawn and claims 1-40 be allowed.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: February 4, 2005

By: 

Deborah Katz

Reg. No. 51,863

Phone: (202) 408-4382

Fax: (202) 408-4400

E-mail: deborah.katz@finnegan.com